

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

JOSEPH LEE STEPHENS,

Plaintiff,

v.

**CIVIL ACTION NO. 2:19-CV-23
(BAILEY)**

JANET MAPHIS,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James P. Mazzone [Doc. 16]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on April 1, 2019, wherein he recommends the plaintiff's Complaint be dismissed for lack of subject matter jurisdiction.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

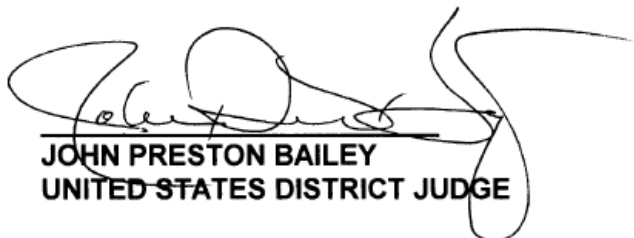
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Mazzone's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket indicates the plaintiff accepted service on April 3, 2019 [Doc. 17]. In lieu of objections, plaintiff filed a letter on April 4, 2019 [Doc. 18], which states that he "would like for [the case] to be dismissed." Accordingly, the R&R will be reviewed for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 16]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the plaintiff's Complaint **[Doc. 1]** is **DISMISSED** pursuant to Federal Rule 12(h)(3) for lack of subject matter jurisdiction. The plaintiff's Motion for Leave to Proceed IFP **[Doc. 2]** and Motion to Dismiss **[Doc. 18]** are **MOOT**. The Clerk is **DIRECTED** to **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: May 9, 2019.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE